



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region8

MAY 03 2017

8ENF-W-WO

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Phil Rykhoek Sr., Chief Executive Officer
Denbury Resources Inc.
5320 Legacy Drive
Plano, TX 75024-3127

Re: Request for Information Pursuant to Section 308 of the Clean Water Act, 33 U.S.C. § 1318(a),
ND Incident Report #s: 20160518172721, 20161226161722, NRC Report #: 1145355 and
Baumstark Braatenn Law Partners Letter of Intent to file Suit dated October 21, 2016

Dear Mr. Rykhoek:

The Environmental Protection Agency is investigating the status of the discharges listed below. The information we received indicate that crude oil and/or produced water were discharged from pipelines and storage tanks owned and/or operated by Denbury Resources Inc. (Denbury). Pursuant to section 308 of the Clean Water Act (Act), 33 U.S.C. § 1318(a), the EPA has the authority to request information pertinent to carrying out its responsibilities under the Act for the following discharges:

Report #s/Source	Discharge Date	Location
ND Incident #: 20160518172721	May 18, 2016	Sec:15, TWP: 131, Range: 106, Qtr: NENE, Bowman County, ND.
ND Incident #: 20161226161722	December 25, 2016	Sec: 26, TWP: 131, Range: 105, Qtr: SESW, Bowman County, ND
NRC Report #: 1145355	April 15, 2016	Sec: 9, TWP:8, Range:59 Fallon County, MT
Baumstark Braaten Law Partners	September 2, 2016	Sec:32, TWP: 8S, Range: 54E, Qtr: SWSE, Powder River County, MT

Our purpose in sending this Request for Information (RFI) is to require Denbury to provide information regarding the discharges, the pipelines, the storage tanks and associated facilities. The EPA is requesting, pursuant to the above referenced statutory authority, that you respond to the enclosed RFI. Please answer each question on the enclosure, including subparts of the questions for each discharge. The RFI Statement of Certification must be signed by a duly authorized official of your company.

Although your response to the RFI is mandatory, you may be entitled to assert a Confidential Business Information (CBI) claim pursuant to the regulations set forth in 40 C.F.R. Part 2. If EPA determines the

information you have designated as CBI meets the criteria in 40 C.F.R. § 2.208, the information will be disclosed only to the extent and by means of the procedures specified in 40 C.F. R. Part 2, Subpart B. Unless a confidentiality claim is asserted at the time the requested information is submitted, the EPA may make the information available to the public without further notice to you.

Section 309 of the Act, 33 U.S.C. § 1319, provides for administrative and civil penalties of up to \$52,414 per day of violation for failure to comply with this RFI. Please be further advised that the submission of false, fictitious or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001.

This RFI is exempt from the approval requirements of the Paper Work Reduction Act of 1980, 44 U.S.C. § 3501 et seq.

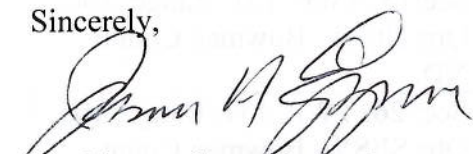
A Small Business Regulatory Enforcement Fairness Act (SBREFA) information sheet, resources and tools available to small businesses is enclosed with this letter. SBREFA does not eliminate your responsibilities to comply with the Act or to respond to the RFI.

Your response to the this RFI must be submitted within (30) thirty days of the receipt of this letter to:

U.S. Environmental Protection Agency, Region 8
Christopher Ajayi, Mail code: ENF8-W-WO
1595 Wynkoop Street
Denver, CO 80202-1129

Mr. Ajayi can assist you with any questions regarding this RFI; he may be reached at (303) 312-6320 or at (800) 227-9441, ext. 6320. When calling, please refer to your company's name and the incident number(s) and/or NRC report number referenced above. An electronic version of the RFI is available upon request. Inquiries of a legal nature should be directed to Brenda Morris, Attorney, at (303) 312-6891.

Sincerely,



Jim Eppers, Supervisory Attorney
Regulatory Enforcement Unit
Legal Enforcement Program

Sincerely



Kenneth Champagne, Unit Chief
OPA and Wetlands Enforcement Program
Office of Enforcement, Compliance
and Environment Justice

Enclosure

1. Request for Information
2. Instructions and Definitions
3. Statement of Certification Form
4. Small Business Resources Information Sheet

REQUEST FOR INFORMATION

This information is requested pursuant to section 308 of the Clean Water Act, as amended by the Oil Pollution Act of 1990, 33 U.S.C. § 1318(a). This Request for Information (RFI) is not subject to the approval requirements of the Paperwork Reduction Act, 44 U.S.C. § 3507.

Instructions: Instructions are included in this RFI. Please refer to the definitions portion of this RFI when terms are used subsequently in this document.

1. Describe the operations at the control center that first detected the drop in pressure in the pipeline discharges referenced in the cover letter and, if there are any other control centers for each of the pipelines, the operations for those control centers, and describe which control centers can detect pressure drops or other indicia of a discharge at the location of the discharge.
2. Identify the current owner(s) of each pipeline, and provide the current owner(s) Dun & Bradstreet number. Also, identify the parent corporation or other entity (if any) of the current owner(s) and all owners of the pipeline for the last two years.
3. State what type of business unit (i.e., corporation, partnership, limited liability company, etc.) is the owner and/or operator of the pipelines.
 - a. When was the business incorporated or organized? When did the business first begin operating the pipeline?
 - b. In what state was the business first incorporated or organized, and in what state(s) is it authorized to do business? Provide copies of all documents filed with the state where the business was incorporated or organized since the time of incorporation or organization until today, and all documents filed for that same time period with the applicable Secretary of State's Office,
 - c. If the business is a corporation, identify all corporate officials listed with the state in which the company was incorporated, and with the applicable state. If the business is a limited liability company, identify all members and managing members/managers listed with the state in which the limited liability company was organized, and with the applicable state.
4. Identify the operator of the pipeline if different from the owner at the time of the discharge. Describe the relationship between the owner and operator (i.e. employee, contractor, subcontractor, lessee, etc.).
5. State the date and time of the discharge and how this was determined.
 - a. When was the discharge discovered (date and time)?
 - b. Identify the individual who first discovered the discharge and how that individual discovered it.
 - c. Describe how long the discharge continued.
 - d. State the weather conditions at the time of the discharge, including temperature, precipitation, cloud cover, etc.

- e. Provide all documents that relate in any way to your responses to this question and its subparts.
6. For each pollutant discharged:
 - a. State the type of each pollutant discharged. Include the chemical name, formula, and specific gravity. If the pollutant discharged was a mixture, give the percentages of chemicals in the mixture or solution. Provide copies of the Safety Data Sheets, if available.
 - b. List those pollutants that were discharged which are specifically listed or designated as hazardous substances in the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601, Section 101(14), and the regulations promulgated thereto.
7. Describe the quantity of each pollutant that was discharged, the quantity of each pollutant that entered or may have entered any water or its adjoining shorelines, and how those quantities were determined.
 - a. Describe the age, thickness, type, total capacity, diameter, length, daily throughput, and purpose of the pipeline from which the pollutant was discharged.
 - b. Describe the source of the pipeline and the destination, the points where flow through the pipeline can be halted, etc.
 - c. Provide all documents that relate in any way to your determination of such quantities.
8. Provide any estimate or calculation, including:
 - a. A detailed description of the basis for that estimate or calculation of the total amount of oil discharged from the well associated with the discharge from the time anyone working for you or on your behalf first had any indication that there may have been a discharge or problem that could lead to a discharge until the time when the flow of oil through the well associated with the discharge had ceased.
 - b. Provide all documents that relate in any way to your response to this question.
9. Provide details of the specific location of the discharge, including:
 - a. The latitude, longitude, datum, county and state.
 - b. The street address and city, if applicable.
 - c. The township, range, quarter-sections and fractions for rural areas.
 - d. Because the EPA has regulatory authority over lands defined as Indian country pursuant to 18 U.S.C. 1151, please describe the land status (i.e. fee, trust, tribal, federal, allotted) of any lands impacted by the discharge if the discharge occurred within the exterior boundaries of an Indian reservation.
10. Provide copies of the analyses of any samples of the discharged pollutant(s) collected and analyzed, and any other analyses that were conducted as part of the response to the discharge. Describe the locations from which the samples were collected including: latitude, longitude and datum; the date and time the samples were collected; and identify who collected the samples and the name of the laboratory which conducted the analyses.

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11. State whether there was any flow monitoring equipment located at any point along the pipeline at the time of the discharge? If so, describe the flow monitoring equipment and its location (including the location relative to the point of discharge), and provide all documents relating in any way to the flow measured by such flow monitoring equipment for the 30-day period prior to the discharge. If you believe that the flow on the day of the discharge was uncharacteristic of the flow for the prior 30-day period, please describe why and provide all documents in support thereof.
12. Describe the pathway(s) of migration of the discharge from the specific source within the pipeline. Include diagrams and topographic or other maps.
13. State if the oil or other pollutant(s) reached or threatened to reach any waterway or body of water (water), or any drainage leading to that water, including any wetlands, marshes or sewers. If it did:
 - a. Provide the name of that water, and describe it, including its width and depth, flow, direction, and condition at time of discharge (e.g., low, flooded, quiet, turbulent, and dry).
 - b. State each use of the water (e.g., drinking, agriculture, ranching, recreation, commerce).
 - c. Describe the overland pathway(s) of migration of the discharge from the pipeline to a drainage connecting to that water. Include a drawing or sketch of the discharge site showing the location of the pipeline and the extent of the discharge, diagrams, and topographic or other maps.
 - d. Describe the location of water in relation to each of the pipelines and storage tanks from which the discharge originated (e.g., distance, direction, elevation).
 - e. State the quantity of discharged oil or other pollutant(s) reaching the water and how that was determined.
 - f. State the quantity of discharged oil or other pollutant(s) that did not reach the water and how that amount was determined.
 - g. Beginning from the point where the oil or other pollutant(s) reached the water to its confluence with an interstate water or navigable-in-fact water, identify the name and stream status (e.g., ephemeral, intermittent, perennial) of each stream segment between the point where the oil or other pollutant(s) reached the water and that interstate or navigable-in-fact water.
 - h. Describe any film, sheen, discoloration, or iridescent appearance that the discharge caused on the surface of any water or adjoining shorelines. Provide the name, title and business telephone number of each person making the observation.
 - i. Describe any sludge or emulsion deposited on the adjoining shorelines or beneath the surface of the water described above. Provide the name, title and business telephone number of each person making the observation.
 - j. Indicate how long the discharged oil or other pollutant(s) remained in or on the water, as well as on any adjoining shoreline.
 - k. If you take the position that any water impacted by the discharge is not a "navigable water" as defined in section 502(7) of the Act, 33 U.S.C. § 1362(7), explain the basis for this position.
14. Describe any damage as a result of the discharge and provide all documents that relate in any way to such damage to:

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- a. Animal life, including the number and species of injured or dead fish, birds, animals, insects, etc.
 - b. Vegetation, including how many feet, acres, or miles of land were affected and the type of vegetation affected (e.g., crops, timber, forest, prairie grasses, scrub).
15. List and describe any sensitive environments, wildlife habitats or refuges, endangered species, water wells, or drinking water intakes within 100 miles downstream of the location of the discharge. Describe the location and distance of each from the point of the discharge. With respect to drinking water intakes in the area, provide the following information:
 - a. When did you notify the operator of those drinking water intakes of the discharge? Identify the individual that was notified and how the notification was provided. Provide all documents that relate in any way to such notification.
 - b. If your notification to the operator of those drinking water intakes was not provided immediately after it was first suspected that the discharge may have occurred, describe the reason for the delay, and provide all documents related in any way to such delay.
16. Provide the date and time the discharge was controlled.
 - a. Describe the steps taken to control and clean up the discharge, including dates and times of each measure.
 - b. Describe the steps taken to mitigate any environmental damage.
 - c. State when the cleanup operations were considered complete and all pollutants removed from any water and/or adjoining shoreline.
17. Was an agent (e.g., dispersant, bioremediation agent, surfactant) used? If it was, provide the following:
 - a. The name of agent(s) applied.
 - b. The date(s) and time(s) each agent was applied.
 - c. The latitude, longitude and datum of each location where the agent was applied, and/or provide a map indicating the locations of all applications.
 - d. The method of application and amount of each agent applied.
 - e. The name of the person(s) who applied the agent and their relationship(s) to the owner and/or operator of the vehicle.
 - f. Was permission granted from a Federal On-Scene Coordinator (OSC) prior to the application of any agent? If so, provide the name of the person who granted this permission, and the date it was granted? Provide documentation of permission being granted.
 - g. Provide all documents that relate in any way to your response to this question and its subparts.
18. Describe in detail the cause (e.g., equipment failure, operator error, inadequate procedures or maintenance, etc.) of the discharge.

- a. Describe events leading up to the discharge. This response should include a discussion of the following:
 - 1) The date and time when anyone working for you or on your behalf first had any indication that there may have been a discharge or problem that could lead to a discharge. Your response to this request must identify the persons involved and state their relationship to you.
 - 2) All actions taken by anyone working for you or on your behalf, after there was any indication that there may have been a discharge or problem that could lead to a discharge, to stop the flow of oil to the location of the discharge. Your response to this request must:
 - a) Describe each step taken by each individual in the control center(s) from the time of the first indication that there was a drop in pressure in the pipeline or any other indication that there might be a potential discharge from the pipeline until the time when flow in the pipeline to the point of discharge was stopped;
 - b) Identify the persons involved;
 - c) State their relationship to you; and
 - d) State the date and time of each action or step taken by each person. Provide any documents prepared by those persons, or prepared with input from, or information supplied by, those persons, regarding such actions taken, and any logs that were generated from the first indication that there was a drop in pressure in the pipeline or any other indication that there might be a potential discharge from the pipeline until the time when flow in the pipeline to the point of discharge was stopped.
 - 3) Your estimate or calculation, including a detailed description of the basis for that estimate or calculation, of the amount of oil that continued to flow through the pipeline at the location of the discharge from the time anyone working for you or on your behalf first had any indication that there may have been a discharge or problem that could lead to a discharge until the time when the flow of oil through the pipeline at the location of the discharge had ceased.
 - b. Describe any measures taken, or planned to be taken, to prevent any future discharges from this location of the pipeline and any other location where the pipeline crosses a river or other water.
 - c. Provide all documents that relate in any way to your response to this question and its subparts.
19. List the federal, state, tribal, and/or local agencies to which the discharge was reported. State the date and time of the notification and identify the official contacted.
- a. For any notifications that were not provided immediately after the time you had knowledge of the discharge, describe why such notifications were delayed.
 - b. Identify all persons from the above-mentioned agencies, and those who were working for you, or on your behalf, who were present at or near the location of the discharge at the time of the discharge or during the response thereto.

- c. Provide copies of all documents or reports prepared by federal, state, tribal, and/or local agencies regarding the discharge.
20. Describe any fines assessed by any government agency in conjunction with the discharge. Identify the agency(ies), amount of the fines, and the dates assessed, and provide all documents related to such assessment.
21. Describe in detail any previous spills or discharges of oil or other pollutant(s) from the pipeline within the past five years.
- a. List each pollutant discharged, including the chemical name, formula, and specific gravity. If the pollutant discharged was a mixture, please give the percentages of chemicals in the mixture or solution. Use the following format:

<u>Date</u>	<u>Pollutant</u>	<u>Source</u>	<u>Quantity</u>	<u>Waterway Affected/Threatened</u>	<u>Cause</u>
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- b. Describe any measures taken to prevent or mitigate future discharges from the pipeline following the spills or discharges listed above, and provide all documents related to such measures.
22. List any applicable EPA, state, county or local governmental identification number for the pipeline or permit numbers (i.e., NPDES, RCRA, Oil and Gas Commission, etc.), using the following format:

<u>Number</u>	<u>Facility/Unit Assigned To</u>	<u>Issuing Agency</u>	<u>Date Issued</u>
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23. Provide any additional pertinent information and documents that you have related to this discharge. Please submit color photographs, or color photocopies of photos. Please submit copies of the following documents if you have any of them in your possession:
- a. USGS topographic maps (for the facility and discharge locations).
- b. Geographic Information System (GIS) maps or data.
- c. Aerial photography, both current and historical.
- d. Hydrologic flow and fate or transport models.
- e. Wetland and stream functional models.
- f. Stream profiles and culvert sizes.
- g. Stream gauge data.
- h. Precipitation records.
24. Identify the persons that were consulted regarding the response to this request and provide their relationships to the owner or operator of the pipeline that was the source of the discharge.

STATEMENT OF CERTIFICATION

I certify under the penalty of law, that I have personally examined and am familiar with the information submitted in this document and all attachments, and that, based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information.

Signature

Date

Printed Name

Title and Name of Company



U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Small Business Programs

www.epa.gov/smallbusiness
EPA's Office of Small Business Programs (OSBP) advocates and fosters opportunities for direct and indirect partnerships, contracts, and sub-agreements for small businesses and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman

www.epa.gov/sbo or 1-800-368-5888
The EPA Asbestos and Small Business Ombudsman (ASBO) serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

EPA's Compliance Assistance Homepage

www2.epa.gov/compliance
This page is a gateway industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

EPA's Compliance Assistance Centers

www.assistancecenters.net
EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture/

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair
ccar-greenlink.org/ or 1-888-GRN-LINK

Chemical Manufacturing
www.chemalliance.org

Construction
www.cicacenter.org or 1-734-995-4911

Education
www.campuserc.org

Food Processing
www.fpeac.org

Healthcare
www.hercenter.org

Local Government
www.lgean.org

Metal Finishing
www.nmfrc.org

Paints and Coatings
www.paintcenter.org

Printing
www.pneac.org

Ports
www.portcompliance.org

Transportation
www.tercenter.org

U.S. Border Compliance and Import/Export Issues
www.bordercenter.org

EPA Hotlines, Helplines and Clearinghouses

www2.epa.gov/home/epa-hotlines
EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

Clean Air Technology Center (CATC) Info-line
www.epa.gov/ttn/catc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP and Oil Information Center
www.epa.gov/superfund/contacts/infocenter/index.htm or 1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline
www.epa.gov/otaq/imports or 734-214-4100

National Pesticide Information Center
www.npic.orst.edu/ or 1-800-858-7378

National Response Center Hotline to report oil and hazardous substance spills - www.nrc.uscg.mil or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) - www.epa.gov/opptintr/ppic or 1-202-566-0799

Safe Drinking Water Hotline - www.epa.gov/drink/hotline/index.cfm or 1-800-426-4791

Stratospheric Ozone Protection Hotline

www.epa.gov/ozone/comments.htm or 1-800-296-1996

Toxic Substances Control Act (TSCA) Hotline

tsc-hotline@epa.gov or 1-202-554-1404

Small Entity Compliance Guides

<http://www.epa.gov/sbrefa/compliance-guides.html>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

<http://www.epa.gov/sbo/rsbl.htm>

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

www.epa.gov/sbo/507program.htm

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

www.epa.gov/tribalportal/

The Portal provides access to information on environmental issues, laws, and resources related to federally recognized tribes.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www2.epa.gov/enforcement/small-businesses-and-enforcement

This Policy offers small businesses special incentives to come into compliance voluntarily.

EPA's Audit Policy

www2.epa.gov/compliance/epas-audit-policy

The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.